

PATENT



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

EXPRESS MAIL NO.: EL 904756789 US

Applicant : Thomas Dean Gulley  
Application No. : not assigned yet  
Filed : concurrently herewith  
Title : THREE-PIECE BARREL HINGE  
Docket No. : 46893/DRK/S1050

**PETITION UNDER 37 CFR 1.47(b) and MPEP 409.03**

Box New Application  
Assistant Commissioner for Patents  
Washington, D.C. 20231

Post Office Box 7068  
Pasadena, CA 91109-7068  
February 22, 2002

Commissioner:

As attorney of record in the above identified application (hereafter the "Application"), on behalf of the assignee Sierra Pacific Engineering and Products, I hereby petition for acceptance of the above identified application on behalf of a sole inventor Thomas Dean Gulley who refuses to execute the application and refuses to cooperate with the prosecution of the Application.

On behalf of the assignee, I further hereby petition that any patent which may issue from the Application be issued to Sierra Pacific Engineering and Products.

In accordance with 37 CFR 1.47, this Petition is accompanied by the following:

1. Declaration for Patent Application as required by 37 CFR 1.63 and 1.64 and MPEP §324.
2. Declarations by Larry Mirick, President, George Alvarado, Engineering Manager, and Todd M. Kawai, Controller and Human Resource Manager, of Sierra Pacific Engineering and Products, stating Sierra Pacific Engineering and Products' relationship to the inventor, attesting to the pertinent facts surrounding Mr. Gully's refusal to sign the Declaration for Patent Application upon presentation of a full and complete copy of the patent application and the Declaration for Patent

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Application, and establishing the necessity of this Petition to preserve the rights of Sierra Pacific Engineering and Products.

3. A copy of the original executed Assignment under which Mr. Gully assigned all of his right, title, and interest to the invention to Sierra Pacific Engineering and Products.

4. A check in the amount of \$130.00 for payment of the petition fee required by 37 CFR 1.17(i) is enclosed. The Commissioner is hereby authorized to charge any fees associated with this communication, or credit any overpayment, to Deposit Account No. 03-1728.

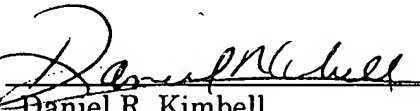
The name and last known address of the inventor is:

Thomas Dean Gulley  
534 West Lime Avenue  
Monrovia, California 91016

Assignee believes that all statutory requirement have been sufficiently met, and accordingly respectfully requests prompt acceptance of this petition. However, if there are any remaining matters, a telephone call to the undersigned would be appreciated.

Respectfully submitted,

CHRISTIE, PARKER & HALE, LLP

By 

Daniel R. Kimbell  
Reg. No. 34,849  
626/795-9900

DRK/drk

Enclosures

DRK PAS389701.1.\*-2/22/02 1:04 PM



PATENT

UNITED STATES PATENT AND TRADEMARK OFFICE

EXPRESS MAIL NO.: EL 904756789 US

Applicant : Thomas Dean Gulley  
Application No. : not assigned yet  
Filed : concurrently herewith  
Title : THREE-PIECE BARREL HINGE  
Docket No. : 46893/DRK/S1050

**DECLARATION OF LARRY MIRICK IN SUPPORT OF  
PETITION UNDER 37 C.F.R. 1.47(b)**

Box New Application  
Assistant Commissioner for Patents  
Washington, D.C. 20231

Post Office Box 7068  
Pasadena, CA 91109-7068

I, Larry Mirick, hereby declare as follows:

1. I am the founder and President of Sierra Pacific Engineering and Products (the "Company").

2. Prior to having his employment with the Company terminated on October 9, 2001 for insubordination, Thomas Dean Gulley was employed by the Company as an estimator.

3. I was informed by our Company's Engineering Manager, Mr. George Alvarado, that Mr. Gulley had invented a new three-piece barrel hinge design on Company time and using Company resources. Mr. Alvarado and I, upon discussion, decided that the invention had commercial merit. I instructed Mr. Alvarado to contact our patent attorney Daniel R. Kimbell, Esq. of Christie, Parker, and Hale, LLP, and ask him to prepare a utility patent application on the invention. Mr. Kimbell did so and forwarded it, along with a Declaration and Power of Attorney,

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a Verified Statement Claiming Small Entity Status, and Assignment to my attention. I passed these application papers onto Mr. Alvarado for review and to have them processed as required. A copy of these papers are attached as Exhibits A-D attached hereto.

4. Sometime after September 25, 2001, Mr. Alvarado informed me that he had had a meeting with Mr. Gulley, and that Mr. Gulley had signed the Assignment document (a copy of which is attached as Exhibit E), but had refused to sign the Declaration and Power of Attorney form, citing his dissatisfaction with his bonus and salary increase. Mr. Alvarado asked me to meet with Mr. Gulley to try to obtain Mr. Gulley's cooperation and signature on the Declaration and Power of Attorney Form.

5. On Friday, October 5, 2001, at approximately 4:00 PM, I met with Mr. Gulley and informed him that I had heard from Mr. Alvarado that Mr. Gulley was refusing to sign the Declaration and Power of Attorney, and asked him if this was correct. I then presented the utility patent application and the unexecuted Declaration and Power of Attorney to Mr. Gulley for his review and signature. Mr. Gulley stated that he had a disagreement with Mr. Alvarado over his not receiving the bonus amount he thought he was owed and over not receiving a new higher salary he desired. Mr. Gulley stated that he would not sign the Declaration and Power of Attorney until he received his full bonus and received the raise he wanted. I asked Mr. Gulley what his bonus and new salary had to do with his obligation to sign the Declaration and Power of Attorney, and asked Mr. Gulley if it was his contention that he had invented the invention on his own time, had used his own equipment and supplies to make the invention, or if he otherwise believed that he was not under a duty to cooperate by signing the Declaration and Power of Attorney. Mr. Gulley answered that it was not his contention that he owned the invention, and in fact did not disagree with my position, but that he still would not sign the Declaration and Power of Attorney until his bonus and salary demands were met. I concluded the meeting by telling Mr. Gulley that he should go home and think about what he was doing over the weekend.

6. On Monday, October 8, 2001 at approximately 3:50 PM, I had a second meeting with Mr. Gulley wherein I again presented the utility patent application and the unexecuted Declaration and Power of Attorney to him for his review and signature, and instructed him that he was under a duty to sign the Declaration and Power of Attorney. Mr. Gulley refused to sign, again insisting that he must first be given a raise and received the bonus which he thought he was entitled. I told him he should seriously reconsider his position since the Company would be able to get the patent application filed and prosecuted even without his cooperation. He left my office committing to cooperate.

7. That night, at about 8:00 PM, I called Mr. Gulley at his home, and instructed him that he must execute the Declaration and Power of Attorney when he got to work the following morning, or he would be terminated for insubordination.

8. After speaking with Mr. Gulley, I next called the Company's Controller and Human Resource Manager, Mr. Todd M. Kawai and explained the facts to him. Since I was not going to be at the office on Tuesday, October 9, 2001, I asked Mr. Kawai to present the utility patent application and the unexecuted Declaration and Power of Attorney to Mr. Gulley for his signature. I instructed Mr. Kawai that if Mr. Gulley refused to execute all of these documents, that Mr. Gulley's employment with the Company should be terminated immediately for insubordination.

9. As is set forth in the accompanying declaration of Mr. Kawai, when Mr. Gulley came into work on Tuesday, October 9, 2001, Mr. Kawai presented Mr. Gulley with the utility patent application and the unexecuted Declaration and Power of Attorney and asked for Mr. Gulley's signature. Mr. Gulley refused to do so, and Mr. Kawai terminated Mr. Gulley's employment for insubordination. To date, I have not been contacted by Mr. Gulley or any representatives of Mr. Gulley offering to execute the Declaration and Power of Attorney.

10. The granting of this petition is necessary to preserve the rights of the Company, since absent the granting of this petition, the Company will not be able to secure patent protection on its

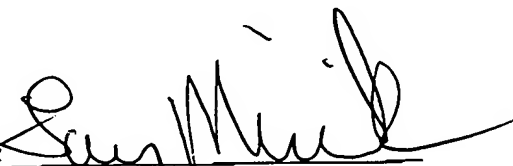
Docket No. 46893/DRK/S1050

duly assigned invention and its invention will likely be copied in the marketplace, resulting in financial loss to the Company.

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

Date: November 13, 2001

By:

  
Larry Mirick  
President, Sierra Pacific Engineering and Products

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PATENT

EXPRESS MAIL NO.: EL 904756789 US

Applicant : Thomas Dean Gulley  
Application No. : not assigned yet  
Filed : concurrently herewith  
Title : THREE-PIECE BARREL HINGE  
Docket No. : 46893/DRK/S1050

**DECLARATION OF GEORGE ALVARADO IN SUPPORT OF  
PETITION UNDER 37 C.F.R. §1.47(b)**

Box New Application  
Assistant Commissioner for Patents  
Washington, D.C. 20231

Post Office Box 7068  
Pasadena, CA 91109-7068

I, George Alvarado, hereby declare as follows:

1. I am the Engineering Manager of Sierra Pacific Engineering and Products (the "Company").

2. Thomas Dean Gulley was an estimator with the Company, and reported to me as his supervisor. As an estimator, Mr. Gulley was exposed to the full gamut of products developed by the Company, and received product requests from the Company's customers. In response to a request for an estimate for a barrel hinge from one customer, Mr. Gulley determined that existing designs could be improved. On Company time and using Company resources, he thereafter invented the new three-piece barrel hinge design which is the subject of the above identified patent application. He disclosed the invention to me and I then discussed it with our president Mr. Larry Mirick.

3. Mr. Mirick and I decided that the invention had commercial merit and that the Company should try to patent the invention. Thereafter, I instructed our patent attorney Daniel R. Kimbell, Esq. of Christie, Parker, and Hale, LLP, to prepare a utility patent application for the invention. Mr. Kimbell did so and forwarded it, along with a Declaration and Power of Attorney, a Verified Statement Claiming Small Entity Status, and Assignment, to Mr. Mirick. These application papers were then given to me by Mr. Mirick for my review and to have processed as required. I reviewed the patent application and found that it accurately reflects the invention. A copy of these papers are attached as Exhibits A-D to the Declaration of Larry Mirick in Support of Petition Under 37 C.F.R. §1.47(b) .

4. On September 25, 2001, I called Mr. Gulley into my office and presented him with the utility patent application, the unexecuted Declaration and Power of Attorney and the unexecuted Assignment document. I asked Mr. Gulley to read the patent application and execute the Declaration and Power of Attorney and the Assignment document. Mr. Gulley executed the Assignment form (a copy of which is attached as Exhibit E to the Declaration of Mr. Mirick), but when I asked him to read and sign the Declaration and Power of Attorney, he became uncooperative, citing his dissatisfaction with the size of his bonus and salary increase. I told Mr. Gulley that as an employee who developed the invention in the Company's field of business, using Company facilities, and on Company time, he was obligated to execute the Declaration and Power of Attorney and fully cooperate with the Company in obtaining a patent on the invention. Mr. Gulley continued to refuse to sign the Declaration and Power of Attorney, and insisted that his demands must be met before he would agree to sign anything else. Having reached an impasse, I ended the meeting and asked him to reconsider his decision.

5. After the meeting, I met with Mr. Mirick and described to him my meeting with Mr. Gulley. I gave Mr. Mirick the utility patent application, the Declaration and Power of Attorney, and the executed Assignment form, and asked him if he would speak with Mr. Gulley and try to get Mr. Gulley to sign the Declaration and Power of Attorney.



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6. I understand that Mr. Mirick subsequently had two face-to-face meetings and one telephone conversation with Mr. Gulley during which Mr. Gulley continued to refuse to cooperate by signing the Declaration and Power of Attorney for the patent application.

7. On Tuesday, October 9, 2001, when Mr. Gulley came in to work I had a short meeting with him and again recommended that he again reconsider his decision and agree to execute the Declaration and Power of Attorney. I understand that after our meeting, Mr. Todd Kawai, our Company's Controller and Human Resource Manager, met with Mr. Gulley and presented Mr. Gulley with the utility patent application and the unexecuted Declaration and Power of Attorney for his review and signature. I understand the Mr. Gulley refused to sign, and that his employment with the Company was terminated.

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

Date: November 13, 2001

By:

  
George Alvarado

Project Manager, Sierra Pacific Engineering and Products

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PATENT

EXPRESS MAIL NO.: EL 904756789 US

Applicant : Thomas Dean Gulley  
Application No. : not assigned yet  
Filed : concurrently herewith  
Title : THREE-PIECE BARREL HINGE  
Docket No. : 46893/DRK/S1050

**DECLARATION OF TODD M. KAWAI IN SUPPORT OF  
PETITION UNDER 37 C.F.R. §1.47(b)**

Box New Application  
Assistant Commissioner for Patents  
Washington, D.C. 20231

Post Office Box 7068  
Pasadena, CA 91109-7068

I, Todd M. Kawai, hereby declare as follows:

1. I am the Controller and Human Resource Manager for Sierra Pacific Engineering and Products (the "Company").

2. Thomas Dean Gulley was hired by the Company on September 15, 1994 as an inside sales representative. His job was reclassified to "estimator" on January 1, 1999. Mr. Gulley's employment with the Company ended on October 9, 2001 when he was terminated for insubordination for refusing to execute a Declaration and Power of Attorney for the above identified patent application.

3. During the evening of October 8, 2001, I received a telephone call at home from the Company's President Mr. Larry Mirick. He informed me that Mr. Gulley was refusing to sign a Declaration and Power of Attorney for his invention for "Three-Piece Barrel Hinge", and that Mr.

Docket No. 46893/DRK/S1050

Mirick had advised Mr. Gulley that when Mr. Gulley came into work the morning of October 9, 2001, his employment would be terminated if he did not sign the Declaration and Power of Attorney. Mr. Mirick instructed me that since he would be out of the office on October 9, 2001, that I should meet with Mr. Gulley to handle the termination if Mr. Gulley continued to refuse to cooperate.

4. On the morning of October 9, 2001, when Mr. Gulley arrived at work I called him to my office I told him that he must sign the Declaration and Power of Attorney or he would be terminated for insubordination. Mr. Gulley refused to sign the Declaration and Power of Attorney, and I informed him that he was terminated effective immediately. A final paycheck was issued to Mr. Gulley that morning.

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

Date: November 13, 2001

By:



Todd M. Kawai  
Controller and Human Resource Manager  
Sierra Pacific Engineering and Products

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Rev. 11/00

**DECLARATION AND POWER OF ATTORNEY  
FOR PATENT APPLICATION****PATENT**

Docket No. : 46893/DRK/S1050

As a below named inventor, I hereby declare that:

My residence, mailing address and citizenship are as stated below next to my name.

I believe I am the original, first and sole inventor (if only one name is listed below) or an original, first and joint inventor (if plural names are listed below) of the subject matter which is claimed and for which a patent is sought on the invention entitled **THREE-PIECE BARREL HINGE**, the specification of which is attached hereto unless the following is checked:

\_\_\_ was filed on \_\_\_ as United States Application Number or PCT International Application Number \_\_\_ and was amended on \_\_\_ (if applicable).

I hereby state that I have reviewed and understand the contents of the above-identified specification, including the claims, as amended by any amendment specifically referred to above.

I acknowledge the duty to disclose information which is material to patentability as defined in 37 CFR § 1.56, including for continuation-in-part applications, material information which became available between the filing date of the prior application and the national or PCT international filing date of the continuation-in-part application.

I hereby claim foreign priority benefits under 35 U.S.C. § 119(a)-(d) or § 365(b) of the foreign application(s) for patent or inventor's certificate, or § 365(a) of any PCT International application which designated at least one country other than the United States of America, listed below and have also identified below, any foreign application for patent or inventor's certificate, or any PCT International application having a filing date before that of the application on which priority is claimed.

Prior Foreign Application(s)

<u>Application Number</u>	<u>Country</u>	<u>Filing Date (day/month/year)</u>	<u>Priority Claimed</u>
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I hereby claim the benefit under 35 U.S.C. § 119(e) of any United States provisional application(s) listed below.

<u>Application Number</u>	<u>Filing Date</u>
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I hereby claim the benefit under 35 U.S.C. § 120 of any United States application(s), or any PCT International application designating the United States, listed below and, insofar as the subject matter of each of the claims of this application is not disclosed in the prior United States or PCT International application in the manner provided by the first paragraph of 35 U.S.C. § 112.

<u>Application Number</u>	<u>Filing Date</u>	<u>Patented/Pending/Abandoned</u>
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**POWER OF ATTORNEY:** I hereby appoint the following attorneys and agents of the law firm CHRISTIE, PARKER & HALE, LLP to prosecute this application and any international application under the Patent Cooperation Treaty based on it and to transact all business in the U.S. Patent and Trademark Office connected with either of them in accordance with instructions from the assignee of the entire interest in this application;

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APR 23 2002

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**DECLARATION AND POWER OF ATTORNEY  
FOR PATENT APPLICATION**

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**Docket No. 46893/DRK/S1050**

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or from the first or sole inventor named below in the event the application is not assigned; or from \_\_ in the event the power granted herein is for an application filed on behalf of a foreign attorney or agent.

R. W. Johnston	(17,968)	Daniel R. Kimbell	(34,849)	Robert A. Green	(28,301)
D. Bruce Prout	(20,958)	Craig A. Gelfound	(41,032)	John W. Peck	(44,284)
Hayden A. Carney	(22,653)	Syed A. Hasan	(41,057)	Stephen D. Burbach	(40,285)
Richard J. Ward, Jr.	(24,187)	Kathleen M. Olster	(42,052)	David B. Sandelands, Jr.	(46,023)
Russell R. Palmer, Jr.	(22,994)	Daniel M. Cavanagh	(41,661)	Heidi L. Eisenhut	(46,812)
LeRoy T. Rahn	(20,356)	Molly A. Holman	(40,022)	Nicholas J. Pauley	(44,999)
Richard D. Seibel	(22,134)	Joel A. Kauth	(41,886)	Mark J. Marcelli	(36,593)
Walter G. Maxwell	(25,355)	Patrick Y. Ikehara	(42,681)	Paul Heynssens	(47,648)
William P. Christie	(29,371)	Mark Garscia	(31,953)	Peter A. Nichols	(47,822)
David A. Dillard	(30,831)	Gary J. Nelson	(44,257)	David J. Steele	(47,317)
Thomas J. Daly	(32,213)	Raymond R. Tabandeh	(43,945)	Laurence H. Pretty	(25,312)
Vincent G. Gioia	(19,959)	Cynthia A. Bonner	(44,548)	Robert A. Schroeder	(25,373)
Edward R. Schwartz	(31,135)	Jun-Young E. Jeon	(43,693)	Richard A. Wallen	(22,671)
John D. Carpenter	(34,133)	Marc A. Karish	(44,816)	Michael J. MacDermott	(29,946)
David A. Plumley	(37,208)	John F. O'Rourke	(38,985)	Anne Wang	(36,045)
Wesley W. Monroe	(39,778)	Richard J. Paciulan	(28,248)	Richard A. Clegg	(33,485)
Gregory S. Lampert	(35,581)	Josephine E. Chang	(46,083)	Natu J. Patel	(39,559)
Grant T. Langton	(39,739)	Frank L. Cire	(42,419)	Tom H. Dao	(44,641)
Constantine Marantidis	(39,759)	Harold E. Wurst	(22,183)		

The authority under this Power of Attorney of each person named above shall automatically terminate and be revoked upon such person ceasing to be a member or associate of or of counsel to that law firm.

**DIRECT TELEPHONE CALLS TO: Daniel R. Kimbell, 626/795-9900**

**SEND CORRESPONDENCE TO:**  
**CHRISTIE, PARKER & HALE, LLP**  
**P.O. Box 7068**  
**Pasadena, CA 91109-7068**

**Customer Number: 23363**

I declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under 18 U.S.C. 1001 and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

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**DECLARATION AND POWER OF ATTORNEY  
FOR PATENT APPLICATION**

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**Docket No. 46893/DRK/S1050**

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<b>NAME OF SOLE OR FIRST INVENTOR</b>			
Thomas Dean Gulley			
Inventor's Signature			Date
City	State	Country	Citizenship
Residence: Monrovia	California	USA	US
Mailing Address:			

EAJ PAS367775.1-\* 2/22/02 8:25 AM

**ASSIGNMENT**

WHEREAS, I, THOMAS DEAN GULLEY, residing at 534 West Lime Avenue, Monrovia, California 91016, have invented certain new and useful improvements disclosed in an application for United States Letters Patent entitled **THREE-PIECE BARREL HINGE**, and executed by me on \_\_\_\_\_;

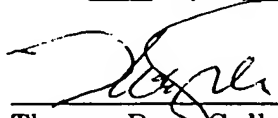
AND WHEREAS SIERRA PACIFIC ENGINEERING AND PRODUCTS, a California corporation, having a place of business at 3144 East Maria Street, Rancho Dominguez, California 90221 (hereafter, together with any successors, legal representatives or assigns thereof, called "ASSIGNEE") wants to acquire the entire right, title and interest in and to said improvements and application.

NOW, THEREFORE, in consideration of the sum of One Dollar (\$1.00) to me in hand paid, and other good and valuable consideration, the receipt of which is hereby acknowledged, I have sold, assigned, transferred and set over, and do hereby sell, assign, transfer and set over to ASSIGNEE the entire right, title and interest in and to said improvements, and said application and all divisions and continuations thereof, and all United States Letters Patents which may be granted thereon and all reissues, reexaminations and extensions thereof, and all priority rights under all available International Agreements, Treaties and Conventions for the protection of intellectual property in its various forms in every participating country, and all applications for patents (including related rights such as utility-model registrations, inventor's certificates, and the like) heretofore or hereafter filed for said improvements in any foreign countries, and all patents (including all continuations, divisions, extensions, renewals, substitutes, and reissues thereof) granted for said improvements in any foreign countries; and I hereby authorize and request the United States Commissioner of Patents and Trademarks, and any officials of foreign countries whose duty it is to issue patents on applications as aforesaid, to issue all patents for said improvements to ASSIGNEE in accordance with the terms of this Assignment;

AND I HEREBY covenant that I have full right to convey the entire interest herein assigned, and that I have not executed, and will not execute, any agreement in conflict herewith;

AND I HEREBY further covenant and agree that I will communicate to ASSIGNEE any facts known to me respecting said improvements, and testify in any legal proceeding, sign all lawful papers, execute all divisional, continuation, substitute and reissue applications, make all rightful oaths and generally do everything possible to aid ASSIGNEE to obtain and enforce proper patent protection for said improvements in all countries.

IN TESTIMONY WHEREOF, I hereunto set my hand this 9 day of 25, 2001.

  
Thomas Dean Gulley